

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MELVIN JOSEPH SIMMONS,)	No. 1:21-cv-01550-NONE-SAB (PC)
)	
Plaintiff,)	
)	
v.)	<u>ORDER ADOPTING FINDINGS AND</u>
)	<u>RECOMMENDATIONS, DENYING PLAINTIFF'S</u>
CISNEROS, et al.,)	<u>MOTION TO PROCEED IN FORMA PAUPERIS,</u>
)	<u>AND DIRECTING PAYMENT OF THE FILING</u>
)	<u>FEE WITHIN TWENTY DAYS</u>
Defendants.)	
)	(Doc. No. 6)
)	

Plaintiff Melvin Joseph Simmons is proceeding *pro se* in this civil rights action pursuant to 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On October 22, 2021, the assigned magistrate judge issued findings and recommendations recommending that plaintiff not be allowed to proceed *in forma pauperis* and instead be directed to pay the required filing fee in full if he wishes to proceed with this action because: (1) he is subject to the three strikes bar under 28 U.S.C. § 1915(g); and (2) the allegations in his complaint do not satisfy the “imminent danger of serious physical injury” exception to § 1915(g). (Doc. No. 6.) Those findings and recommendations were served on plaintiff and contained notice that any objections thereto were to be filed within fourteen (14) days from the date of service. (*Id.*) On November 12, 2021, plaintiff filed objections to the pending findings and recommendations. (Doc. No. 11.)

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1 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this court has conducted a *de*
2 *novo* review of this case. Having carefully reviewed the entire file, including plaintiff's objections, the
3 court finds the findings and recommendations to be supported by the record and by proper analysis.

4 Accordingly,

- 5 1. The findings and recommendations entered on October 22, 2-21 (Doc. No. 6), are
6 adopted in full;
- 7 2. Pursuant to 28 U.S.C. § 1915(g), plaintiff's application to proceed *in forma pauperis* in
8 this action must be denied;
- 9 3. Within thirty (30) days from the date of service of this order, plaintiff is required to pay
10 in full the \$402.00 filing fee for this action; and
- 11 4. Plaintiff's failure to pay the required filing fee as ordered will result in the dismissal of
12 this action without prejudice.

13
14 IT IS SO ORDERED.

15 Dated: November 21, 2021

16 
UNITED STATES DISTRICT JUDGE